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Supreme Court, U.S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1958

No. 281

LOS ANGELES COUNTY FLOOD CONTROL DISTRICT,

Petitioner,

vs.

SOUTHERN CALIFORNIA GAS COMPANY, a corporation, and SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA, a corporation,

Respondents.

Petition for Writ of Certiorari to the District Court of Appeal of the State of California, Second Appellate District, Division One.

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Petition for Writ of Certiorari to the District Court of Appeal of the State of California, Second Appellate District, Division One.

Petitioner, Los Angeles County Flood Control District, respectfully prays for a Writ of Certiorari to the District Court of Appeal of the State of California, Second Appellate District, Division One, to review the judgment thereof, affirming the judgment of the Superior Court in *Southern California Gas Company, Southern Counties Gas Company of California v. Los Angeles County Flood Control District*, Los Angeles Superior Court No. 659797.

In order to improve and enlarge a natural watercourse the petitioner required the respondents to relocate their pipeline which was in the way of such improvement. The respondents relocated their line and sought reimbursement

of the cost from the District, on the ground that requiring such removal without reimbursement:

> "* * * was and is without due process of law and in violation of the rights vested in plaintiffs [respondents] by the Fourteenth Amendment to the Constitution of the United States. * * *."

The said Superior Court gave respondents judgment for such costs, and on appeal by the petitioner, the District Court of Appeal affirmed this judgment.

Citations to Opinions Below.

The memorandum opinion of the Superior Court is unreported and is printed as Appendix B, *infra*. The opinion of the District Court of Appeal will be published in 169 California Appellate Reports 2d (not yet published) and is now published in 169 Advance California Appellate Reports, pages 881, *et seq.*, and 338 Pacific 2d 29, *et seq.* It is printed as Appendix A, *infra*.

There are no other written opinions.

The judgment of the Court below, the District Court of Appeal of the State of California, in conformance with that court's practice, is the final paragraph of Presiding Justice White's opinion (App. A, p. 9, 169 A. C. A. p. 888, 338 P. 2d p. 34) which reads:

> "The judgment is affirmed."

Grounds on Which the Jurisdiction of This Court Is Invoked.

1. The judgment of the District Court of Appeal, here sought to be reviewed was rendered and entered April 24, 1959.

2. Timely filed petition for rehearing was denied on May 20, 1959. Timely filed petition for hearing in the Supreme Court of the State of California was denied on June 18, 1959.

3. The statutory provisions invoked as conferring on this Court jurisdiction to review the judgment in question by Writ of Certiorari are 28 United States Code, Section 1257, paragraph (3); 28 United States Code, Section 2101, paragraph (c) and that portion of sub-paragraph (a) of paragraph (1) of Rule 19 of the Rules of this Court, which provides:

> "(a) Where a state court has decided a federal question of substance * * * in a way probably not in accord with applicable decisions of this court."

Question Presented for Review.

When a natural watercourse must be enlarged to accommodate increased water flow from the watershed served by the watercourse, and the required enlargement necessitates the relocation of pipelines or other structures in the watercourse, is requiring the owners of such pipelines or other structures to make the necessary relocations at their own expense a taking of property without due process of law contrary to the Fourteenth Amendment of the Constitution of the United States?